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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,246	08/31/2001	Chet D. Linton	8808.11	1295
21999 7590 05/05/2011 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111				
EXAMINER FERNSTROM, KURT				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
05/05/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/945,246

Applicant(s)

LINTON, CHET D.

Examiner

Kurt Fernstrom

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siefert in view of Pellegrino, and further in view of Sallette. Siefert discloses in the Figures and specification a method of providing educational material over a computer network that teaches skills in accordance with measurable standards. Siefert further discloses in column 15, lines 48-59 that Teacher's Guides are provided to instructors to assist them in working with the system and in guiding students through the curriculum. These Teacher's Guides read on the step of providing training to an instructor. While Siefert does not explicitly disclose that the Teacher's Guides are provided via the Internet, this step is obvious in light of the overall disclosure of Siefert, which is directed to providing educational material over a computer network. Siefert also discloses in column 15, lines 11-47 and 60-67 that students are tested, and reports are generated based on comparisons of performance to measurable standards for the purpose of determining the effectiveness of the training. Siefert fails to disclose a lesson plan development system as recited. However, Pellegrino discloses in column 17, lines 13-33 and column 20, line 16 to column 21, line 49 an online system comprising a matrix

for use by an instructor in developing lesson plans. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Siefert by providing a lesson plan development matrix for the purpose of allowing a user to assist an instructor in developing a lesson plan as part of the training. Siefert further fails to disclose the provision of educational materials using streaming media. However, this feature is known in the art, as disclosed for example by Sallette. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Siefert by providing instructional information using streaming media for the purpose of providing an interactive learning experience to a large number of users.

With respect to claims 2 and 3, the step of providing evaluation reports to supervisors and instructors is obvious in light of the teachings of the prior art. With respect to claim 4, 9, 11 and 18, the Teacher Guides are considered to be pertinent to professional training. With respect to claims 5 and 10, Siefert discloses on-line training. With respect to claim 6, audio and video are well known means of transmitting training materials, and are obvious in light of the teachings of Siefert. With respect to claim 12, the step of providing instruction pertaining to measurable standards inherently involves inputting said standards and data into electronic media. With respect to claim 13, while Siefert does not explicitly disclose the use of pedagogical standards, such standards are obvious in light of the teachings of Siefert. With respect to claims 14-16, Siefert discloses third party access to the standards and the steps of evaluating the success of the training and modifying them in response thereto. With respect to claims 17-21, it is known to evaluate an instructor based on performance of the student. This step is

obvious in light of the teachings of Siefert. With respect to claim 22, making the training available to parents would have been obvious in light of the teachings of the prior art.

Response to Arguments

Applicant's arguments with respect to claims 1-6 and 9-22 have been considered but are not persuasive. The claims remain rejected under 35 UC 103, for the reasons set forth above and in previous Office Actions. Providing instructional information online using streaming media is well known, as disclosed for example by Sallette. Additionally, under the broadest reasonable interpretation of the claims an evaluation of the instructor as recited can be performed using the system as disclosed by the combined teachings of the prior art references.

The arguments concerning the rejections under 35 USC 112 are persuasive; as a result, these rejections have been withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kurt Fernstrom/
Primary Examiner, Art Unit 3711

May 4, 2011